



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: State Board of Health

Permanent Rule Only

Effective date of rule:

Permanent Rules

☐ 31 days after filing.

☒ **Other (specify)** 07/01/2010 (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☒ Yes

☐ No

If Yes, explain: ESHB 1244, Section 222(1) includes a restriction on implementation of new or amended rules pertaining to primary and secondary school facilities without funding by the Legislature.

Purpose: Chapter 246-366 WAC, Primary and Secondary Schools, and Chapter 246-366A WAC, Environmental Health and Safety Standards for Primary and Secondary Schools. These chapters provide minimum environmental health and safety standards for all primary and secondary schools in Washington.

Citation of existing rules affected by this order:

Repealed: 0

Amended: 0

Suspended: 0

Statutory authority for adoption: RCW 43.20.050

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 09-14-136 on 07/01/2009 (date).

Describe any changes other than editing from proposed to adopted version: See Attachment A

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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Date adopted: 08/12/2009

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TITLE

Executive Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 22, 2009

TIME: 12:57 PM

WSR 10-01-174

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

The number of sections adopted at the request of a nongovernmental entity:

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in the agency's own initiative:

	New	<u>35</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>35</u>	Amended	<u>0</u>	Repealed	<u>0</u>

**Attachment A. Amendments to WSR 09-14-136
Chapter 246-366 WAC and Chapter 246-366A WAC
Adopted by State Board of Health August 12, 2009**

Amendment	Published Language, Alternative B	Language Adopted by Board
Revise 366-005	"The purpose of this chapter is to maintain minimum environmental health and safety standards for school facilities until the legislature permits full or partial implementation of chapter 246-366A WAC. To the extent funded or otherwise approved by the legislature, chapter 246-366A WAC is intended to replace or supersede this chapter or corresponding portions thereof as identified by the Washington state board of health."	"The purpose of this chapter is to maintain minimum environmental health and safety standards for school facilities until legislative action allows for full or partial implementation of chapter 246-366A WAC. To the extent the legislature funds or otherwise allows for its implementation, chapter 246-366A WAC is intended to replace or supersede this chapter."
Revise 366A-001(2)	"Implementation of this chapter is subject to the state legislature providing funding to public schools in accordance with section 222 of the 2009-11 biennial operating budget, chapter 564, laws of 2009, or other form of legislative action. Unless and until the legislature approves full or partial implementation of this chapter, chapter 246-366 WAC shall take precedent and this chapter shall not be implemented or enforced in any manner."	"Implementation of this chapter is subject to the state legislature providing funding to public schools in accordance with section 222 of the 2009-11 biennial operating budget, chapter 564, laws of 2009, and may be subject to future legislative requirements. Unless and until legislative action allows for full or partial implementation of this chapter, chapter 246-366 WAC shall take precedent and this chapter shall not be implemented or enforced in any manner."
In 366A-003(1) strike "by the legislature"	"Implementation of this chapter, in whole or in part, requires one or more of the following actions by the legislature..."	"Implementation of this chapter, in whole or in part, requires one or more of the following actions..."
Strike 366A-003(2) and replace with new language		"The state board of health shall amend as necessary any order adopting this chapter, filed in accordance with RCW 34.05.060, and any effective dates listed therein to ensure no portion of this rule is implemented at a time and in a manner prohibited by the legislature."
Strike 366A-003(3) and replace with	"Within thirty-one days after the effective date of any law or legislative resolution that funds	"Before implementing this rule, in whole or in part, the state board of health, in addition to

Amendment	Published Language, Alternative B	Language Adopted by Board
revised notification provisions of former 366A-003(2)	or otherwise approves full or partial implementation of this chapter, the state board of health shall provide notice of implementation by submitting an interpretive statement for publication in the <i>Washington State Register</i> in accordance with RCW 34.05.230..."	filing an amended rule making order for publication in the <i>Washington State Register</i> , shall provide notice of implementation."
Renumber 366A-003(2)(a) and revise	"The interpretive statement shall identify the legislative action being interpreted, the section or sections of chapter 246-366A WAC being implemented, the implementation date or dates for each section or sections, the corresponding section or sections of chapter 246-366 WAC that will be superseded, and a brief explanation of significant differences between the requirements of this chapter and the corresponding sections of chapter 246-366 WAC."	"The notice shall identify the action taken by the legislature that allows for implementation, the section or sections of chapter 246-366A WAC being implemented as a result of that action, the effective date or dates for each section or sections, the corresponding section or sections of chapter 246-366 WAC that will be superseded or repealed, and a brief explanation of significant differences between the requirements of this chapter that are being implemented and the corresponding requirements of chapter 246-366 WAC."
Renumber 366A-003(2)(b); re-place "interpretive statement" with "notice"	"The state board of health shall maintain a roster of interested persons and shall send an electronic copy of the interpretive statement to each person on the roster as well as to the following agencies and organizations..."	"The state board of health shall maintain a roster of interested persons and shall send an electronic copy of the notice to each person on the roster as well as to the following agencies and organizations..."
Renumber 366A-003(2)(c) and revise	"The office of superintendent of public instruction shall forward the notice of implementation electronically to school districts, school principals and private schools."	"The office of superintendent of public instruction shall forward, to the extent possible, the notice of implementation electronically to school districts and approved private schools."
Revise 366A-003(4)	"The state board of health shall maintain a web page showing the sections of this chapter that have been or are scheduled to be implemented, the implementation dates, and the corresponding sections of chapter 246-366 WAC that have been or will be replaced or superseded."	"The state board of health shall maintain a web page showing the sections of this chapter that have been or are scheduled to be implemented, their effective dates, and the corresponding sections of chapter 246-366 WAC that have been or will be superseded or repealed."

Amendment	Published Language, Alternative B	Language Adopted by Board
Revise 366A-005(1)	"To the extent funded or implemented through legislative action, this chapter..."	"To the extent implemented in accordance with legislative action, this chapter..."
Revise 366A-005(8)	"If the local permitting jurisdiction received a complete building permit application for school construction prior to the implementation date of any construction-related requirements of this chapter, the construction-related requirements of chapter 246-366 WAC in effect at the time of application apply."	"If the local permitting jurisdiction received a complete building permit application for school construction prior to the effective date of any construction-related requirements of this chapter, the construction-related requirements of chapter 246-366 WAC and this chapter in effect at the time of application apply."
Replace "implementation date" with "effective date" in 366A-020(2)(a)(i), 366A-030(6), 366A-090(3), 366A-090(4)(c), 366A-095(2)(a), 366A-095(2)(b), 366A-0130(3)(a), 366A-0130(3)(b)(i), 366A-0130(3)(b)(ii), 366A-0130(4)(a)(i), 366A-0130(4)(a)(ii), 366A-0130(4)(a)(iii), 366A-0135(3)(a), 366A-0135(3)(b), 366A-0135(3)(c)		
Revise 366A-170(2)(d)	"...The report must be submitted by March 1 st of each year, beginning in 2013..."	"...The report must be submitted by March 1 st of each year, beginning the third year after the effective date of this section..."

NEW SECTION

WAC 246-366-005 Purpose. The purpose of this chapter is to maintain minimum environmental health and safety standards for school facilities until legislative action allows for full or partial implementation of chapter 246-366A WAC. To the extent the legislature funds or otherwise allows for its implementation, chapter 246-366A WAC is intended to replace or supersede this chapter.

NEW SECTION

WAC 246-366-160 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

Chapter 246-366A WAC

ENVIRONMENTAL HEALTH AND SAFETY STANDARDS FOR PRIMARY AND SECONDARY SCHOOLS

NEW SECTION

WAC 246-366A-001 Introduction and purpose. (1) The purpose of this chapter is to replace chapter 246-366 WAC with a more modern set of minimum environmental health and safety standards for school facilities to promote healthy and safe school environments.

(2) Implementation of this chapter is subject to the state legislature providing funding to public schools in accordance with section 222 of the 2009-11 biennial operating budget, chapter 564, laws of 2009, and may be subject to future legislative requirements. Unless and until legislative action allows for full or partial implementation of this chapter, chapter 246-366 WAC shall take precedent and this chapter shall not be implemented or enforced in any manner.

(3) It is the intent of the Washington state board of health to work with the legislature to develop a strategy and timeline for funding and implementation of this chapter.

NEW SECTION

WAC 246-366A-003 Implementation. (1) Implementation of this chapter, in whole or in part, requires one or more of the following actions:

(a) Authorization of expenditures in the Omnibus Appropriations Act for the expressed purpose of funding implementation for public schools;

(b) Repeal, modification or expiration of statutory restrictions on implementation; or

(c) Enactment of any statute or resolution authorizing implementation.

(2) The state board of health shall amend as necessary any order adopting this chapter, filed in accordance with RCW 34.05.060, and any effective dates listed therein to ensure no portion of this rule is implemented at a time and in a manner

prohibited by the legislature.

(3) Before implementing this rule, in whole or in part, the state board of health, in addition to filing an amended rule making order for publication in the *Washington State Register*, shall provide notice of implementation.

(a) The notice shall identify the action taken by the legislature that allows for implementation, the section or sections of chapter 246-366A WAC being implemented as a result of that action, the effective date or dates for each section or sections, the corresponding section or sections of chapter 246-366 WAC that will be superseded or repealed, and a brief explanation of significant differences between the requirements of this chapter that are being implemented and the corresponding requirements of chapter 246-366 WAC.

(b) The state board of health shall maintain a roster of interested persons and shall send an electronic copy of the notice to each person on the roster as well as to the following agencies and organizations:

- (i) The Washington state code reviser;
- (ii) The Washington state department of health;
- (iii) The Washington state office of superintendent of public instruction;
- (iv) Washington state local health jurisdictions;
- (v) Washington state professional associations representing school officials;
- (vi) The Washington federation of independent schools;
- (vii) Washington state labor organizations representing school employees;
- (viii) The Washington state association of local public health officials;
- (ix) The Washington state PTA; and
- (x) The Washington state legislature through the chairs of the fiscal, health, and education committees of both houses.

(c) The office of superintendent of public instruction shall forward, to the extent possible, the notice of implementation electronically to school districts and approved private schools.

(4) The state board of health shall maintain a web page showing the sections of this chapter that have been or are scheduled to be implemented, their effective dates, and the corresponding sections of chapter 246-366 WAC that have been or will be superseded or repealed.

NEW SECTION

WAC 246-366A-005 Applicability. (1) To the extent implemented in accordance with legislative action, this chapter, or such portions thereof funded or approved as part of a phase-in or partial implementation, shall apply to all school facilities

operated for the primary purpose of providing education at the kindergarten through twelfth grade (K-12) levels, and preschools that are part of such facilities except:

(a) Private residences used for home-based instruction as defined by RCW 28A.225.010(4);

(b) Facilities hosting educational programs where educational instruction is not a primary purpose, including, but not limited to, detention centers, jails, hospitals, mental health units, or long-term care facilities;

(c) Private facilities where tutoring is the primary purpose; and

(d) Public or private postsecondary education facilities providing instruction to students primarily enrolled in secondary school.

(2) These rules are in addition to all other requirements that apply to schools and, except as specified, do not affect the applicability of those requirements.

(3) Additional environmental health and safety rules that apply to school facilities include, but are not limited to:

(a) Chapter 246-215 WAC Food services;

(b) Chapter 246-217 WAC Food worker cards;

(c) Chapter 246-260 WAC Water recreation facilities;

(d) Chapter 246-262 WAC Recreational water contact facilities;

(e) Chapter 246-272A WAC On-site sewage systems;

(f) Chapter 246-272B WAC Large on-site sewage system regulations;

(g) Chapter 246-290 WAC Public water supplies; and

(h) Chapter 246-291 WAC Group B public water systems.

(4) This chapter, or portions thereof, are intended to replace or supersede chapter 246-366 WAC, or corresponding portions thereof as identified by the state board of health, once the legislature has provided funding for implementation by public schools or taken other action to authorize implementation.

(5) These rules are not intended to replace or supersede the department of labor and industries' authority and jurisdiction over employee safety and health.

(6) These rules are not intended to replace requirements of the building code council under Title 51 WAC, but may be more stringent to protect health and safety.

(7) For a school undergoing an alteration or addition, WAC 246-366A-040, 246-366A-060, 246-366A-090, 246-366A-100, 246-366A-110, 246-366A-120, 246-366A-150, and 246-366A-160 apply only to:

(a) Areas that are part of the addition;

(b) Areas undergoing alteration; and

(c) Changes to existing building systems, such as heating and ventilation systems, when those changes are included in construction documents or a building permit application describing the alteration or addition.

(8) If the local permitting jurisdiction received a complete building permit application for school construction prior to the effective date of any construction-related requirements of this chapter, the construction-related requirements of chapter 246-366

WAC and this chapter in effect at the time of application apply.

NEW SECTION

WAC 246-366A-010 Definitions. The following definitions apply to these rules:

(1) "Addition" means an extension or increase in floor area or height of a building or structure.

(2) "Air contaminants of public health importance" means pollutants in the indoor air that could, depending on dose and circumstances, have health impacts, including but not limited to:

(a) Volatile organic compounds, for example, formaldehyde and benzene;

(b) Combustion by-products, for example, carbon monoxide and nitrogen oxides;

(c) Vapors and gases, for example, chlorine, mercury, and ozone;

(d) Heavy metal dusts and fumes, for example, chromium and lead; and

(e) Particulates, for example, wood and ceramic dust.

(3) "Alteration" means any construction or renovation to an existing structure other than repair or addition.

(4) "Construction" or "construction project" means any activity subject to state or local building codes.

(5) "Construction documents" means written, graphic, and pictorial documents prepared or assembled for describing the design, location, and physical characteristics of the elements of a project necessary for obtaining a building permit.

(6) "Contaminant" means any hazardous material that occurs at greater than natural background levels.

(7) "Decibel (dB)" means a standard unit of measurement of sound pressure.

(8) "Decibel, A-weighted (dBA)" means a decibel measure that has been weighted in accordance with the A-weighting scale. The A-weighting adjusts sound level as a function of frequency to correspond approximately to the sensitivity of human hearing.

(9) "Department" means the Washington state department of health.

(10) "Drinking fountain" means the type of plumbing fixture that delivers a stream of water for drinking without actively cooling the water.

(11) "Emergency eye wash" means a hands-free device that:

(a) Irrigates and flushes both eyes simultaneously with tepid potable water;

(b) Activates an on-off valve in one second or less and remains on without user assistance until intentionally turned off; and

(c) Delivers at least 0.4 gallons (1.5 liters) of water per

minute for at least fifteen minutes.

(12) "Emergency shower" means a hand-activated shower that delivers tepid potable water to cascade over the user's entire body at a minimum rate of 20 gallons (75 liters) per minute for at least fifteen minutes.

(13) "Equivalent sound level (L_{eq})" means the level of a constant sound that, over a given time period, contains the same amount of sound energy as the measured fluctuating sound.

(14) "Faucet" means a type of plumbing fixture that is a valved outlet device attached to a pipe that normally serves a sink or tub and can discharge hot water, cold water, or both.

(15) "First draw sample" means a water sample collected immediately upon opening a plumbing fixture that has not been used for at least eight hours prior to collection.

(16) "Flush sample" means a water sample collected after allowing cold water to run for at least thirty seconds from a plumbing fixture that has not been used for at least eight hours prior to collection.

(17) "Foot-candle" means a unit of measure of the intensity of light falling on a surface, equal to one lumen per square foot.

(18) "Hazardous materials" means toxic, corrosive, flammable, explosive, persistent, or chemically reactive substances that, depending on dose and circumstances, pose a threat to human health.

(19) "Imminent health hazard" means a significant threat or significant danger to health or safety that requires immediate action to prevent serious illness, injury, or death.

(20) "Implementation" or "implemented" means being given or having the force of law, requiring compliance, and being subject to enforcement.

(21) "Laboratory" means instructional areas of the school facility where students might be exposed to greater potential health and safety hazards than typically exist in general academic classrooms. Such laboratories may include, but are not limited to, chemistry, physics, material science, and biology laboratories or art studios (for example: Darkrooms, ceramic studios, and print making studios).

(22) "Local board of health" means the county or district board of health as defined in RCW 70.05.010(3).

(23) "Local health officer" means the legally qualified physician who has been appointed as the health officer for the county or district public health department as defined in RCW 70.05.010, or his or her authorized representative, including, but not limited to, the environmental health director.

(24) "Mechanical exhaust ventilation" means the removal of indoor air to the outside of the building by mechanical means.

(25) "Noise criterion (NC)" means a system for rating the noise level in an occupied area by comparing actual or calculated sound level spectra with a series of established octave band spectra.

(26) "Noise criterion 35 (NC35)" means the curve for specifying the maximum permissible sound pressure level for each frequency band.

(27) "Preschool" means an instructional curriculum and portion of a school facility designed to instruct children not old enough to attend kindergarten.

(28) "Portable" means any relocatable structure that is transported to a school site and is placed or assembled there for use by students as part of a school facility.

(29) "Repair" means the reconstruction or renewal of any part of an existing school facility for the purpose of its maintenance.

(30) "School" means any public, religious-affiliated, or private institution for instructing students in any grade from kindergarten through twelfth grade.

(31) "School board" means an appointed or elected board whose primary responsibility is to operate schools or to contract for school services and includes the governing body or owner of a private school.

(32) "School facility" means buildings or grounds owned or leased by the school or donated to the school for the primary purpose of student use including, but not limited to, portables, playgrounds and sports fields.

(33) "School officials" means those persons designated by the school board as responsible for planning, policy development, budgeting, management, or other administrative functions.

(34) "Shop" means instructional areas of the school facility where students are exposed to greater health and safety hazards than typically exist in general academic classrooms. Shops include, but are not limited to, industrial and agricultural shops, including career and technical education (for example: Metal-working, wood-working, construction, automotive, and horticulture).

(35) "Site" means any real property used or proposed to be used as a location for a school facility.

(36) "Source capture system" means a mechanical exhaust system designed and constructed to capture air contaminants at their source and release air contaminants to the outdoor atmosphere.

(37) "Tempered water" means water having a temperature range between eighty-five degrees Fahrenheit and one hundred ten degrees Fahrenheit.

(38) "Tepid water" means water having a temperature range between sixty degrees Fahrenheit and ninety-five degrees Fahrenheit.

(39) "Toxic" means having the properties to cause or significantly contribute to death, injury, or illness.

(40) "Variance" means an alternative to a specific requirement in these rules, approved by the local health officer, that provides a comparable level of protection.

(41) "Very low lead plumbing fixture" means plumbing fittings or fixtures used in the installation or repair of any plumbing providing water for human consumption that contain less than 0.3% lead by weight.

(42) "Water cooler" means a type of mechanical plumbing fixture that actively cools the water.

NEW SECTION

WAC 246-366A-015 Guidance. (1) The department, in cooperation with the office of superintendent of public instruction, shall:

(a) Update the *Health and Safety Guide for K-12 Schools in Washington* (the guide) at least every four years; and

(b) Make the guide available on the department's web site.

(2) The guide is the primary source of guidance for local health officers and school officials implementing these rules.

NEW SECTION

WAC 246-366A-020 Responsibilities--General. (1) Responsibilities of school officials. School officials shall:

(a) Maintain conditions within the school environment that will not endanger health and safety.

(b) Identify, assess, and mitigate or correct environmental health and safety hazards in their school facilities, establish necessary protective procedures, use appropriate controls, and take action to protect or separate those at risk from identified hazards, consistent with the level of risk presented by the specific hazard, until mitigation or correction is complete.

(c) When conditions are identified that pose an imminent health hazard:

(i) Take immediate action to mitigate hazards and prevent exposure;

(ii) Promptly notify the local health officer; and

(iii) Promptly inform school facility staff, students, and parents about the conditions and actions taken in response.

(d) Retain for at least six years, unless otherwise required by other state or federal laws, records pertaining to:

(i) Health and safety inspections of the school facilities, including the final report findings, correction schedules established in consultation with the local health officer, and recommended actions;

(ii) Imminent health hazards identified under this section and WAC 246-366A-190, and actions taken in response;

(iii) Site assessment, review, and approval as required under WAC 246-366A-030;

(iv) Construction project plan review and approval as required under WAC 246-366A-040; and

(v) Playground plan review and approval as required under WAC 246-366A-150.

(e) Have the records described in this subsection available to the public, except where otherwise provided by applicable public disclosure law.

(f) Prepare a report to the public and the school board at

least annually about environmental health and safety conditions in the schools. The report must include an explanation of:

- (i) Variances obtained from the local health officer regarding requirements of these rules;

- (ii) Dates of environmental health and safety inspections conducted under requirements of these rules and any deficiencies not corrected within the time frame established by the local health officer in accordance with subsection (2) of this section;

- (iii) Any imminent health hazards identified; and

- (iv) A method for school officials to receive public comment about the report.

- (2) Responsibilities of the local health officer.

- (a) Except as provided in (b) of this subsection, the local health officer shall:

- (i) Periodically conduct an environmental health and safety inspection of each school facility within his or her jurisdiction. Beginning one year after the effective date of this section, those inspections must be conducted at least once each year.

- (ii) Notify school officials at the time of discovery or immediately following the inspection if conditions that pose an imminent health hazard are identified, and recommend actions to mitigate the hazards and prevent exposure.

- (iii) Consult with school officials upon completion of the inspection about findings and recommended follow-up actions and, if necessary, develop a correction schedule. Approaches and timelines used to address noncompliant conditions will depend on the level of risk to health and safety presented by the condition, and may include consideration of low-cost alternatives.

- (iv) Develop draft and final inspection reports, in consultation with school officials, within sixty days after conducting an inspection. The report must include inspection findings related to this rule and any required correction schedule.

- (v) Confirm, as needed, that corrections are accomplished.

- (vi) Retain for at least six years, unless otherwise required by other state or federal laws, records pertaining to:

- (A) Health and safety inspections of the school facilities performed by the local health officer, including, but not limited to, the final inspection report and correction schedules; and

- (B) Imminent health hazards identified under this section and WAC 246-366A-190, and local health officer actions taken in response.

- (vii) Have the records described in this subsection available to the public, except where otherwise provided by applicable public disclosure law.

- (b) The local health officer may allow a school official or qualified designee to conduct a required inspection under a program approved by the local health officer not more than two out of every three years. The program must include provisions for:

- (i) Assuring that the school official or designee conducting the inspection has attended training in the standards, techniques, and methods used to conduct an environmental health and safety inspection;

- (ii) Completing a standardized checklist at each inspection;
- (iii) Providing a written report to the local health officer about the findings of the inspection;
- (iv) Notifying the local health officer regarding any identified imminent health hazards and coordinating with the local health officer to mitigate hazards and prevent exposure; and
- (v) Consulting with the local health officer on follow-up and corrective actions needed to address noncompliant conditions that do not pose an imminent health hazard.
- (3) Responsibilities of the department.
 - (a) The department shall:
 - (i) Report to the state board of health once every three years. The report must include a summary of:
 - (A) Variances granted by local health officers; and
 - (B) Status of local rule implementation.
 - (ii) Make technical assistance and training available to local health jurisdictions, educational service districts, school districts, and school personnel for implementation of these rules, including:
 - (A) Inspection techniques and procedures;
 - (B) Inspection materials and checklists;
 - (C) Variance request evaluations; and
 - (D) Model environmental health and safety programs for schools and local health jurisdictions.
 - (b) The department, at the request of the local health officer, may assist in investigating environmental health and safety incidents at schools.
 - (c) Establish a school rule technical advisory committee to help promote consistent statewide interpretation and implementation of these rules.

NEW SECTION

- WAC 246-366A-030 Site assessment, review, and approval.** (1) A full site assessment and local health officer review and approval to determine environmental health and safety risk, is required for:
- (a) Constructing a new school facility on a site that was previously undeveloped or developed for other purposes; or
 - (b) Converting an existing structure for primary use as a school facility.
- (2) The local health officer shall determine, in consultation with school officials, the need for and scope of the site assessment, review, and approval process for:
- (a) Constructing a new school facility on an existing school site;
 - (b) Constructing an addition to an existing school facility;
- or
- (c) Converting part of an existing structure primarily used

for other purposes into a school facility.

(3) A full site assessment must include:

(a) A Phase 1 Environmental Site Assessment (ESA) that meets the requirements of the *American Society for Testing and Materials (ASTM) Standard #1527-05* (published November 2005);

(b) Sampling and analysis of potential contaminants if the Phase 1 ESA indicates that hazardous materials may be present. Sampling and analysis must comply with applicable rules of the Washington state department of ecology;

(c) A noise assessment. Noise from any source must not exceed an hourly average of 55 dBA (the mean sound energy level for a specified time ($L_{eq,60 \text{ minutes}}$)) and must not exceed an hourly maximum (the maximum sound level recorded during a specified time period (L_{max})) of 75 dBA during the time of day the school is in session. Sites exceeding these sound levels are acceptable if a plan for noise reduction is included in the new construction proposal and the plan for noise reduction is approved by the local health officer.

(4) School officials shall:

(a) Notify the local health officer within ninety days of starting preliminary planning for school construction that may require a site assessment with local health officer review and approval.

(b) Consult with the local health officer throughout the plan development phase regarding the scope of the site assessment and the timeline for completion of the site assessment.

(c) Have a site assessment completed when required under this section.

(d) Submit a written report to the local health officer assessing the potential impact of health and safety risks presented by the proposed site, including, but not limited to the following:

(i) The findings and results obtained under subsection (3) of this section;

(ii) Analysis of the findings;

(iii) Description of any mitigation proposed to address identified health and safety risks present at the site; and

(iv) Any site assessment-related information requested by the local health officer to complete the site assessment review and approval process.

(e) Obtain site review and written site approval from the local health officer when required under subsection (1) or (2) of this section.

(5) The local health officer shall:

(a) Conduct an inspection of the proposed site;

(b) Review the site assessment for environmental health and safety risk;

(c) For site assessments according to subsection (1) of this section, provide written approval, describe site deficiencies needing mitigation to obtain approval, or deny use of the proposed school facility site within sixty days of receiving a complete request unless the school officials and the local health officer agree to a different timeline; and

(d) For site assessments according to subsection (2) of this section, provide written approval or describe site deficiencies needing mitigation to obtain approval of the proposed school facility site within sixty days of receiving a complete request unless the school officials and the local health officer agree to a different timeline.

(6) If school officials notified the local health officer in writing prior to the effective date of this section that construction is planned for a particular site, the site review requirements in effect at the time of notification apply, provided that school officials comply with all agreed on timelines for completion.

NEW SECTION

WAC 246-366A-040 Construction project review. (1) The following school facility construction projects must be reviewed by the local health officer:

- (a) Construction of a new school facility;
- (b) Schools established in all or part of any existing structures previously used for other purposes;
- (c) Additions or alterations consisting of more than five thousand square feet of floor area or having a value of more than ten percent of the total replacement value of an existing school facility;

(d) Any construction of a shop or laboratory for use by students; and

(e) Installation of a portable.

(2) Review and approval requirements for installation of a playground are established in WAC 246-366A-150.

(3) School officials shall:

(a) Consult with the local health officer during preliminary planning for school construction projects that are subject to the requirements of this section;

(b) Invite the local health officer to a predevelopment conference with school officials and project design professionals to participate in the discussion about the preliminary design to highlight health and safety matters and requirements of these rules;

(c) Obtain construction project review and written approval from the local health officer regarding environmental health and safety requirements in these rules before starting construction;

(d) Provide construction documents to the local health officer at the same time as the local building official to facilitate a concurrent and timely review; and

(e) Provide additional documents requested by the local health officer, which may include, but are not limited to, written statements signed by the project's licensed professional engineer

verifying that design elements comply with requirements specified by these rules.

(4) The local health officer shall:

(a) Consult with school officials and determine what is required for plan review and approval;

(b) Review construction documents to confirm that the health and safety requirements of these rules are met;

(c) Identify and request any additional documents required to determine compliance with requirements specified by these rules; and

(d) Provide written approval, or describe plan deficiencies needing change to obtain approval, of the construction project within sixty days of receiving all documents needed to complete the review, unless the school officials and the local health officer agree to a different timeline.

NEW SECTION

WAC 246-366A-050 Preoccupancy inspection of construction projects. (1) School officials shall:

(a) Obtain a preoccupancy inspection by the local health officer of construction projects subject to WAC 246-366A-040(1), conducted in coordination with a final inspection by the local building official, in order to ensure imminent health hazards are corrected before allowing school facilities to be occupied; and

(b) Notify the local health officer at least five business days before a desired preoccupancy inspection.

(2) The local health officer:

(a) Shall coordinate all construction-related inspections with the on-site project manager or other appropriate person identified by school officials.

(b) May inspect for compliance with these rules during the construction phase.

(c) Shall conduct a preoccupancy inspection for construction projects subject to WAC 246-366A-040(1) to verify compliance with these rules before the building is occupied and not more than five business days after the date requested by school officials or as otherwise agreed to by the school officials and the local health officer.

(i) If an imminent health hazard is identified, a solution must be identified and agreed to by school officials, the local health officer, and the local building official and implemented by school officials before the affected portion of the building is occupied.

(ii) If other conditions of noncompliance with these rules are identified, school officials shall be provided with a written list of items and consulted in developing a correction schedule, based on the level of risk to health and safety.

(d) May reinspect to confirm satisfactory correction of the items identified under (c) of this subsection.

NEW SECTION

WAC 246-366A-060 General construction requirements. School officials shall:

(1) Design school facilities to minimize conditions that attract, shelter, and promote the propagation of insects, rodents, bats, birds, and other pests of public health significance. This subsection does not mandate the installation of window screens nor does it prohibit the installation of retention ponds or rain gardens.

(2) Design school facilities with windows in sufficient number, size, and location to enable students to see outside at least fifty percent of the school day. Windows are optional in special purpose instructional areas including, but not limited to, theaters, music areas, multipurpose areas, gymnasiums, auditoriums, shops, laboratories, libraries, and seminar areas.

(3) Provide sun control to exclude direct sunlight from window areas and skylights of instructional areas, assembly rooms and meeting rooms during at least eighty percent of the normal school hours. Each area must be considered as an individual case. Sun control is not required for sun angles less than forty-two degrees up from the horizontal. Sun control is not required if air conditioning is provided or special glass is installed having a total solar energy transmission factor less than sixty percent.

(4) Provide surfaces on steps that reduce the risk of injury caused by slipping.

(5) Provide floors throughout the school facility that are appropriate for the intended use, easily cleanable and can be dried effectively to inhibit mold growth. These floor materials include, but are not limited to, wood, vinyl, linoleum, and tightly woven carpets with water impervious backing.

(6) Provide reasonably sufficient space for the storage of play equipment, instructional equipment, and outdoor clothing. The space must be reasonably accessible, lighted, and ventilated.

(7) Provide measures to reduce potential injury from fall hazards, including but not limited to, retaining walls; performance arts stages and orchestra pits; balconies; mezzanines; and other similar areas of drop-off to a lower floor.

(8) Provide the following items for health rooms, if health rooms are provided:

(a) The means to visually supervise and provide privacy of room occupants;

(b) Surfaces that can be easily cleaned and sanitized;

(c) A handwashing sink in the room;

(d) An adjoining restroom; and

(e) Mechanical exhaust ventilation so that air does not flow from the health room to other parts of the school facility.

NEW SECTION

WAC 246-366A-065 General operation and maintenance requirements. School officials shall:

- (1) Keep school facilities clean and in good condition.
- (2) Mitigate any environmental health and safety hazards.
- (3) Control conditions that attract, shelter, and promote the propagation of insects, rodents, bats, birds, and other pests of public health significance. This subsection does not mandate the routine installation of window screens nor does it prohibit the proper operation of retention ponds or rain gardens.
- (4) Label, use, store and dispose of hazardous materials to:
 - (a) Prevent health and safety hazards;
 - (b) Keep incompatible substances apart from each other;
 - (c) Prevent unauthorized access and use; and
 - (d) Follow procedures according to material safety data sheet instructions.
- (5) Select supplies and methods of use that reduce exposure to hazardous materials.
- (6) Allow only those hazardous materials in schools that they have approved for use. Types of commercial products that might contain hazardous materials include, but are not limited to, cleaners, sanitizers, maintenance supplies, pesticides, herbicides, and instruction-related supplies.
- (7) Safely store play equipment, instructional equipment, and outdoor clothing where reasonably accessible.
- (8) Use products that comply with American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standard 61 (2007) to coat, line, seal, or patch drinking water contact surfaces, if the interior of water piping or plumbing fixtures is coated or lined.
- (9) Immediately clean and sanitize the contaminated area and prevent human exposure when sewage backups occur.
- (10) Notify the local health officer when sewage backups:
 - (a) Result from failure of an on-site sewage system serving the school facility;
 - (b) Impact student use areas outside restrooms; or
 - (c) Occur in a food preparation, food storage, or food service area.
- (11) Allow upholstered furniture, such as couches and overstuffed chairs, in school facilities only if the furniture has been purchased or approved by school officials.

NEW SECTION

WAC 246-366A-070 Moisture control, mold prevention, and remediation. School officials shall:

(1) Visually monitor the school facility for water intrusion and moisture accumulation that may lead to mold growth, especially after severe weather events.

(2) Begin corrective action within twenty-four hours of discovering water intrusion or moisture accumulation to inhibit and limit mold growth by:

(a) Identifying and eliminating the cause of the water intrusion or moisture accumulation; and

(b) Drying the affected portions of the school facility.

(3) When mold growth is observed or suspected, use recognized remediation procedures such as those provided by the Environmental Protection Agency (Mold Remediation in Schools and Commercial Buildings, EPA 402-K-01-001, March 2001). Begin recognized procedures within twenty-four hours to:

(a) Identify and eliminate the cause of the moisture or water contributing to the mold growth;

(b) Dry the affected portions of the school facility;

(c) Investigate the extent of the mold growth, including evaluation of potentially affected materials and surfaces inside walls and under floor coverings, when moisture or water has entered those spaces;

(d) Minimize exposure to indoor mold spores and fragments until mold remediation is complete using methods including, but not limited to, containment and negative air pressure; and

(e) Remediate surfaces and materials contaminated with mold.

(4) When remediation is required under subsection (3) of this section and there is significant risk of exposure, including when the total area affected is greater than ten square feet, promptly inform school facility staff, students, and parents of the conditions and the plans and time frame for the remediation. The extent of this communication will depend on the likelihood of individual exposure, the scope of the remediation project, and the time required to complete it.

NEW SECTION

WAC 246-366A-080 Safety--Animals in school facilities. (1) School officials shall allow in school facilities only those animals, other than service animals, approved under written policies or procedures.

(2) School officials shall develop written policies or procedures for any animals allowed in school facilities to prevent:

(a) Injuries caused by wild, dangerous, or aggressive animals;

(b) Spread of diseases from animals known to commonly carry

diseases including, but not limited to, rabies, psittacosis, and salmonellosis;

(c) Allergic reactions;

(d) Exposure to animal wastes; and

(e) Handling animals or their bedding without proper handwashing afterward.

(3) Written policies or procedures required under subsection (2) of this section shall address service animals in the school facility that are not well behaved or present a risk to health and safety.

NEW SECTION

WAC 246-366A-090 Heating and ventilation--Construction requirements. School officials shall:

(1) Provide mechanical exhaust ventilation that meets or exceeds the requirements in chapter 51-52 WAC at locations intended for equipment or activities that produce air contaminants of public health importance.

(2) Situate fresh air intakes away from building exhaust vents and other sources of air contaminants of public health importance in a manner that meets or exceeds the requirements in chapter 51-52 WAC. Sources of air contaminants include bus and vehicle loading zones, and might include, but are not limited to, parking areas and areas where pesticides or herbicides are commonly applied.

(3) Use materials that will not deteriorate and contribute particulates to the air stream if insulating the interior of air handling ducts. Insulation materials must be designed to accommodate duct cleaning and exposure to air flow without deteriorating. This subsection does not apply if the local permitting jurisdiction received a complete building permit application within three years after the effective date of this section.

(4) Use ducted air returns and not open plenum air returns consisting of the open space above suspended ceilings. This subsection does not apply to:

(a) Alterations to school facilities;

(b) Additions to school facilities that tie into existing ventilation systems that use open plenum air returns; or

(c) Facilities for which the local permitting jurisdiction received a complete building permit application within three years after the effective date of this section.

NEW SECTION

WAC 246-366A-095 Heating and ventilation--Operation and maintenance requirements. School officials shall:

(1) Heat occupied areas of school buildings during school hours and school-sponsored events to maintain a minimum temperature of sixty-five degrees Fahrenheit except for gymnasiums and hallways, which must be maintained at a minimum temperature of sixty degrees Fahrenheit.

(2) Ventilate occupied areas of school buildings during school hours and school-sponsored events. During periods of ventilation:

(a) For school facilities constructed or sited under a building permit for which the local permitting jurisdiction received a completed building permit application on or after the effective date of this section, provide, as a minimum, outdoor air according to WAC 51-52-0403, Table 403.3, Required Outdoor Ventilation Air.

(b) For school facilities constructed or sited under a building permit for which the local permitting jurisdiction received a completed building permit application before the effective date of this section, conduct standard operation and maintenance best practices including, but not limited to, making timely repairs, removing obstructions, and replacing filters and fan drive belts, and setting system controls so that, to the extent possible given the design of the ventilation system, outdoor air is provided consistent with WAC 51-52-0403, Table 403.3, Required Outdoor Ventilation Air.

(3) Use and maintain mechanical exhaust ventilation installed for equipment or activities that produce air contaminants of public health importance or moisture.

(4) Limit student exposure to air contaminants of public health importance produced by heat laminators, laser printers, photocopiers, and other office equipment by placing such equipment in appropriately ventilated spaces and providing instruction to users on how to operate and maintain equipment as recommended by the manufacturer.

(5) Take preventive or corrective action when pesticides, herbicides, or air contaminants of public health importance are likely to be drawn or are drawn into the building or ventilation system.

NEW SECTION

WAC 246-366A-100 Noise control--Construction requirements.

(1) School officials shall design ventilation equipment and other mechanical noise sources in classrooms to provide background sound which conforms to a noise criterion curve or equivalent not to exceed NC-35. School officials shall certify, or hire the

appropriate person to certify, that ventilation equipment and other mechanical noise sources that have been installed meet the NC-35 noise criterion design standard.

(2) Portable classrooms constructed before January 1, 1990, moved within the same school property or within the same school district, are exempt from the requirements of this section if the portable classrooms meet all of the following criteria:

(a) Noise abating or noise generating features are not altered in a manner that may increase noise levels;

(b) The portable classrooms were previously in use for instruction;

(c) Ownership of the portable classrooms remains the same; and

(d) The new site meets the noise standard in WAC 246-366A-030

(3) (c).

NEW SECTION

WAC 246-366A-105 Noise control--Operation and maintenance requirements. School officials shall:

(1) Maintain the background noise at any student location within classrooms constructed after January 1, 1990, at or below 45 dBA (Leq_x) where x is 30 seconds or more. Background noise levels must be determined when the ventilation system and the ventilation system's noise generating components, such as the condenser and heat pump, are operating and the room is unoccupied by students.

(2) Maintain the background noise level at any student location in laboratories and shops with local exhaust ventilation systems constructed after January 1, 1990, at or below 65 dBA (Leq_x) where x is 30 seconds or more. Background noise levels must be determined when all ventilation equipment is operating and the room is unoccupied by students.

(3) Maintain noise exposure for students below the maximum levels in Table 1.

Table 1	
Maximum Noise Exposures Permissible	
Duration per day (hours)	Sound level (dBA)
8	85
6	87
4	90
3	92
2	95
1-1/2	97
1	100
1/2	105
1/4	110

(4) Not allow student exposure to sound levels equal to or greater than 115 dBA.

(5) Provide and require students to use personal protective equipment, for example ear plugs or muffs, where noise levels exceed those specified in Table 1. Personal protective equipment must reduce student noise exposure to comply with the levels specified in Table 1.

NEW SECTION

WAC 246-366A-110 Lighting--Construction requirements. School officials shall equip school facilities with lighting systems designed to meet the requirements of WAC 246-366A-115. General, task or natural lighting may be used to achieve the minimum lighting intensities. Energy efficient lighting systems, lighting fixtures, or bulbs that meet the minimum lighting intensities in Table 2 of WAC 246-366A-115(1) may be used.

NEW SECTION

WAC 246-366A-115 Lighting--Operation and maintenance requirements. School officials shall:

(1) Provide light intensities that meet or exceed those specified in Table 2. General, task and/or natural lighting may be used to maintain the minimum lighting intensities. Energy efficient lighting systems, lighting fixtures, or bulbs that meet the minimum lighting intensities in Table 2 may be used.

**Table 2
Lighting Intensities**

Measured 30 inches above the floor or on working or teaching surfaces. Some lighting fixtures may require a start-up period before reaching maximum light output.	Minimum foot-candle intensity
General instructional areas, for example, study halls, lecture rooms, and libraries.	30

Measured 30 inches above the floor or on working or teaching surfaces. Some lighting fixtures may require a start-up period before reaching maximum light output.

Minimum foot-candle intensity

Special instructional areas where safety is of prime consideration or fine detail work is done, for example, family and consumer science laboratories, science laboratories (including chemical storage areas), shops, drafting rooms, and art and craft rooms.	50
Noninstructional areas, for example, auditoriums, lunch rooms, assembly rooms, corridors, stairs, storerooms, and restrooms.	10
Gymnasiums: Main and auxiliary spaces, shower rooms, and locker rooms.	20

(2) Control excessive brightness and glare in all instructional areas. Surface contrasts and direct or indirect glare must not cause excessive eye accommodation or eye strain problems.

(3) Provide lighting in a manner that minimizes shadows and other lighting deficiencies on work and teaching surfaces.

NEW SECTION

WAC 246-366A-120 Restrooms and showers--Construction requirements. School officials shall:

(1) Provide shower facilities for grades nine and above for classes in physical education and for team sports. Showers must supply hot water between one hundred and one hundred twenty degrees Fahrenheit.

(2) Provide floor surfaces in shower areas that are water impervious, slip-resistant, and sloped to floor drains. Walls must be water impervious up to showerhead height. Upper walls and ceilings must have an easily cleanable surface.

(3) Locate drying areas, if provided, adjacent to showers and locker or dressing rooms. Walls and ceilings must have an easily cleanable surface and floor surfaces must be water impervious, slip-resistant, and sloped to floor drains.

(4) Provide locker or dressing rooms adjacent to showers or drying rooms. Walls and ceilings must have an easily cleanable surface. When drying areas are provided, floor surfaces in locker or dressing rooms must be appropriate for the intended use, easily cleanable and dryable to effectively inhibit mold growth. When

drying areas are not provided, locker or dressing room floor surfaces must be water impervious, slip-resistant, and sloped to floor drains.

NEW SECTION

WAC 246-366A-125 Restrooms and showers--Operation and maintenance requirements. School officials shall:

- (1) Provide in each restroom:
 - (a) Toilet paper in each toilet stall;
 - (b) Single service handwashing soap near each handwashing sink; and
 - (c) Single-service towels or an adequate number of warm-air dryers. Common use towels are not allowed.
- (2) Provide hot water to all handwashing plumbing fixtures at a maximum temperature of one hundred twenty degrees Fahrenheit.
- (3) Provide tempered water for those handwashing plumbing fixtures that do not allow the user to select water temperature.
- (4) Provide any hand operated, self-closing handwashing plumbing fixtures with the capability of providing at least ten seconds of running water.
- (5) Provide access to restrooms when:
 - (a) School buildings are in use; or
 - (b) Outdoor facilities or athletic fields are in use for school-sponsored events. School officials are not required to provide access to restrooms when outdoor facilities and athletic fields are in use after school hours or on weekends unless it is a school-sponsored event.
- (6) Provide access to shower facilities with hot water between one hundred and one hundred twenty degrees Fahrenheit for classes in physical education and school-sponsored sports teams at grades nine and above.
- (7) When cloth towels are supplied by the school, provide them for individual use and launder them after each use.

NEW SECTION

WAC 246-366A-130 Water quality monitoring--Lead. (1) School officials shall:

- (a) Sample plumbing fixtures that are regularly used for drinking or cooking.
- (b) Use a laboratory to analyze all required water samples that is accredited by the department of ecology, or other appropriate agency if outside Washington state, according to EPA

drinking water laboratory certification criteria.

(2) Water sampling protocols. School officials shall:

(a) Collect representative samples, according to the percentages required by subsections (3) and (4) of this section, from each type and age of plumbing fixture regularly used for drinking or cooking.

(i) For type of fixture, use at least the three types: Drinking fountains, water coolers and faucets.

(ii) For age of fixture, use at least two groupings: Those manufactured prior to 1999, and those manufactured since January 1, 1999.

(b) Sample as follows:

(i) Make sure cold water is the last to run through the fixture to be tested.

(ii) Allow water to sit in the plumbing system at least eight hours. No water may pass through the fixture during that time.

(iii) Place the 250 ml sample bottle under the faucet and open the cold water tap. Fill the bottle to the shoulder or the line marked "250 ml," turn off the water and cap the bottle tightly.

(3) Initial monitoring schedule for lead.

(a) School officials shall conduct initial monitoring by sampling fifty percent of the plumbing fixtures regularly used for drinking or cooking in elementary schools or used by preschool children in K-12 schools within one year after the effective date of this section. This may be either from fifty percent of the fixtures in each school or from all of the fixtures in fifty percent of the schools within a district. School districts shall sample the remaining fifty percent of the fixtures within two years after the effective date of this section.

(b) School officials shall conduct initial monitoring by sampling at least twenty-five percent of each type and age of plumbing fixture, as specified under subsection (2)(a) of this section, regularly used by students for drinking or cooking in:

(i) Middle and junior high schools within three years after the effective date of this section; and

(ii) High schools within four years after the effective date of this section.

(c) School officials, with local health officer approval, may apply samples collected after September 1, 2003, toward meeting the initial monitoring requirement if all plumbing fixtures with lead results above 0.020 milligrams per liter or 20.0 parts per billion have been removed from service, or have been or are being addressed according to subsection (5) of this section, and samples were:

(i) From plumbing fixtures regularly used for drinking or cooking; and

(ii) Collected consistent with subsection (2) of this section.

(4) Ongoing monitoring for lead.

(a) School officials shall repeat lead monitoring every five years, beginning within:

(i) Seven years after the effective date of this section for elementary schools;

(ii) Eight years after the effective date of this section for

middle and junior high schools; and

(iii) Nine years after the effective date of this section for high schools.

(b) School officials shall use sampling protocols in subsection (2) of this section to collect samples in all schools from:

(i) No less than twenty-five percent of each type and age of plumbing fixture which is not a "very low lead" plumbing fixture; and

(ii) No less than ten percent of each type of plumbing fixture which is a "very low lead" plumbing fixture.

(c) Schools that are Group A public water systems are not required to do ongoing lead monitoring required by (a) of this subsection if the schools meet the lead monitoring requirements in chapter 246-290 WAC.

(5) Corrective actions. School officials shall:

(a) For all plumbing fixtures with sample results of lead above 0.020 milligrams per liter or 20.0 parts per billion, immediately shut off these fixtures or make them inoperable.

(b) For all plumbing fixtures of the same type and age as any fixture with results above 0.020 milligrams per liter or 20.0 parts per billion:

(i) Take immediate corrective action according to (a) of this subsection; or

(ii) Collect first draw samples within ten business days. Upon receipt of sample results, immediately shut off or make inoperable all plumbing fixtures with results of lead above 0.020 milligrams per liter or 20.0 parts per billion.

(c) To provide drinking water at the location of these fixtures, take one or more of the following remedies:

(i) Bottled water. If bottled water is used, provide bottled water that is produced by a Washington state department of agriculture-approved bottling operation or out-of-state or international bottler whose product meets federal Food and Drug Administration regulations.

(ii) Manual flushing. Manual flushing may be used only as a temporary remedy. If manual flushing is used:

(A) Take flush samples from twenty-five percent of each type and age of the fixtures planned to be included in the flushing program to determine the flushing time necessary to reduce lead to below 0.020 milligrams per liter or 20.0 parts per billion. Start by following the sample collection protocol of first-draw samples described in subsection (2)(b) of this section with the addition of letting the water run for thirty seconds before filling the bottle.

(B) Open the tap of every fixture included in the flushing program every morning before the school facility opens and let the water run for the length of time established in (c)(ii)(A) of this subsection.

(iii) Automated flushing. If automated flushing is used, take samples from twenty-five percent of each type and age of the fixtures included in the flushing program to demonstrate that the automated system reduces lead to below 0.020 milligrams per liter

or 20.0 parts per billion.

(iv) Fixture replacement. If individual plumbing fixtures are replaced:

(A) Precondition the new plumbing fixtures by running water through the fixture continuously for twenty-four hours; and

(B) Collect first draw samples after preconditioning and verify sample results of lead below 0.020 milligrams per liter or 20.0 parts per billion. If the preconditioned plumbing fixture does not yield a sample result below this level, (a) of this subsection applies.

(v) Treatment. Before treatment is used, submit an engineering project report to the department, per WAC 246-290-110. Installation of treatment devices will result in the school's designation as a public water supply. School officials shall then ensure they comply with the Group A public water system rules and regulations, chapter 246-290 WAC and water works operator certification rules and regulations, chapter 246-292 WAC.

(6) Notification requirements. School officials shall:

(a) Notify school facility staff, students, parents, and the local health officer within five business days of the school officials receiving lead sampling results above 0.020 milligrams per liter or 20.0 parts per billion.

(b) Make all results available for review upon request.

NEW SECTION

WAC 246-366A-135 Water quality monitoring--Copper. (1) School officials shall collect water samples and have them tested for copper following the requirements of WAC 246-366A-130 (1) and (2)(b). The same water samples used for lead testing may be used for copper testing.

(2) School officials shall test water samples for copper from no less than twenty-five percent of each type and age of plumbing fixture regularly used for drinking or cooking.

(a) For type of fixture, use at least the three types: Drinking fountains, water coolers and faucets.

(b) For age of fixture, use at least two groupings: Those manufactured prior to 1999 and those manufactured since January 1, 1999.

(3) School officials shall complete water sampling of plumbing fixtures for copper in:

(a) Elementary schools within two years after the effective date of this section;

(b) Middle and junior high schools within three years after the effective date of this section; and

(c) High schools within four years after the effective date of this section.

(4) If school officials, with local health officer approval,

include lead samples collected after September 1, 2003, toward meeting the initial monitoring requirement for lead, as specified in WAC 246-366A-130, they may wait to monitor those plumbing fixtures for copper until they conduct the next ongoing lead monitoring per WAC 246-366A-130(4).

(5) School officials, with local health officer approval, may include samples collected after September 1, 2003, toward meeting monitoring requirements if all plumbing fixtures with copper results above 1.30 milligrams per liter or 1300 parts per billion have been or are being addressed according to subsection (6) of this section, and the samples were:

(a) From plumbing fixtures regularly used for drinking and cooking; and

(b) Collected using the sampling protocol specified in WAC 246-366A-130 (2)(b).

(6) Corrective actions. For all plumbing fixtures with first draw sample results of copper above 1.30 milligrams per liter or 1300 parts per billion, school officials shall:

(a) Within five business days of getting sample results, consult with the department to develop a corrective action plan; and

(b) Implement the corrective action plan.

(7) Notification requirements. School officials shall:

(a) Notify staff, students and parents, and the local health officer within five business days of the school officials receiving copper sampling results above 1.30 milligrams per liter or 1300 parts per billion; and

(b) Make all results available for review upon request.

NEW SECTION

WAC 246-366A-140 Water quality monitoring--Other drinking water contaminants. The local health officer may require:

(1) Sampling of drinking water when public health concerns exist about drinking water contaminants other than lead or copper;

(2) Corrective actions in response to sampling results for other contaminants; and

(3) School officials to notify school facility staff, students and parents, and the local health officer about test results.

NEW SECTION

WAC 246-366A-150 Playgrounds--Construction and installation requirements. (1) School officials shall:

(a) Consult with the local health officer regarding playground review and approval requirements consistent with the scope of the project when proposing to:

(i) Install new playground equipment or fall protection surfaces;

(ii) Add new playground features or equipment to an existing playground; or

(iii) Modify, other than repair and maintain, existing playground equipment, features, or fall protection surfaces.

(b) If required by the local health officer after consultation:

(i) Provide playground plans and equipment specifications and any additional information the local health officer requests; and

(ii) Obtain plan review and written approval from the local health officer before installing, adding, or modifying playground equipment or fall protection surfaces.

(c) Install playground equipment, including used equipment, and fall protection surfaces:

(i) That meet the ASTM F 1487-01: Standard Consumer Safety Performance Specification for Playground Equipment for Public Use; and

(ii) In a manner that is consistent with the manufacturer's instructions and *Consumer Product Safety Commission Handbook for Public Playground Safety*, 2008.

(d) Prohibit the use of chromated copper arsenate or creosote treated wood to construct or install playground equipment, landscape structures, or other structures on which students may play.

(2) The local health officer shall:

(a) Consult with school officials to determine what is required for playground plan review and approval consistent with the scope of the project.

(b) If playground review and approval is required:

(i) Review playground plans and equipment specifications to confirm that the requirements of these rules are addressed;

(ii) Identify and request any additional documents required to complete the review;

(iii) Provide written approval or denial of the playground plans and equipment specifications within thirty days of receiving all documents needed to complete the review, unless the school officials and the local health officer agree to a different timeline; and

(iv) Verify that playground installation complies with requirements of this section.

(c) Coordinate all playground-related inspections with school officials.

NEW SECTION

WAC 246-366A-155 Playgrounds--Operation and maintenance requirements. School officials shall:

(1) Monitor and operate playgrounds so that protective surfacing and use zones are maintained, and equipment is properly anchored and free of puncture, pinching, crushing, shearing, entanglement, and entrapment hazards.

(2) Prohibit the use of chromated copper arsenate or creosote treated wood to repair or maintain playground equipment, landscape structures, or other structures on which students may play.

NEW SECTION

WAC 246-366A-160 Laboratories and shops--Construction requirements. School officials shall:

(1) Provide an emergency eyewash fountain for each laboratory and shop where hazardous materials are used or eye irritants are produced.

(2) Provide an emergency shower for each laboratory where hazardous materials are used and the potential for chemical spills exists.

(3) Assure that all emergency eyewash fountains and showers have unobstructed access and are reachable within ten seconds.

(4) Provide handwashing and appropriate drying facilities in an easily accessible location in each laboratory and shop.

(5) Provide emergency shut-offs for gas and electricity connected to stationary machinery in laboratories and shops. Emergency shut-offs must:

(a) Be located in close proximity to the room exit door;

(b) Have unobstructed access; and

(c) Have signage readable from across the room for immediate identification during an emergency.

(6) Provide all stationary machinery in laboratories and shops with magnetic-type switches to prevent machines from automatically restarting upon restoration of power after an electrical failure or activation of the emergency shut-off.

(7) Provide mechanical exhaust ventilation in hazardous material storerooms, and in laboratories and shops where equipment or activities may produce air contaminants of public health importance.

(8) When activities or equipment in laboratories or shops produce air contaminants of public health importance, provide an appropriate source capture system to prevent those contaminants from entering the student's breathing zone. These activities and equipment include, but are not limited to, spray painting, welding, pottery kilns, chemistry experiments, and wood-working.

(9) Design ventilation systems to operate so that air is not

recirculated and does not flow from the laboratory or shop to other parts of the school facility. Open plenum air returns consisting of the space above suspended ceilings in laboratories and shops must not be used to recirculate air to other parts of the school facility.

NEW SECTION

WAC 246-366A-165 Laboratories and shops--Operation and maintenance requirements. In laboratories and shops, school officials shall:

(1) Select, label, use, store and dispose of hazardous materials in accordance with WAC 246-366A-065.

(2) Prohibit use and storage of compounds that are:

(a) Considered shock-sensitive explosives, for example, picric acid, dinitro-organics, isopropyl ether, ethyl ether, tetrahydrofuran, dioxane; or

(b) Lethal at low concentrations when inhaled or in contact with skin, for example, pure cyanides, hydrofluoric acid, toxic compressed gases, mercury liquid and mercury compounds, and chemicals identified as the P-list under WAC 173-303-9903.

(3) Adopt safety procedures and processes for instructing students regarding the proper use of hazardous materials and equipment.

(4) Provide and require use of appropriate personal protective equipment when exposure to potential hazards might occur. Potential hazards include, but are not limited to hazardous material exposures, burns, cuts, and punctures.

(5) Provide situation-specific emergency and protective equipment during demonstrations with hazardous materials and with hazardous procedures. Examples of protective equipment include, but are not limited to, safety shields for eyes, protective gloves that are fire retardant and chemical resistant, respiratory protection, and fire extinguishers.

(6) Properly maintain laboratory and shop equipment and mechanical exhaust ventilation.

(7) Provide single-use soap and single-use towels or warm-air dryers at handwashing sinks.

NEW SECTION

WAC 246-366A-170 Variances. (1) School officials:

(a) May request a variance from requirements in these rules from the local health officer if they wish to use an alternative to

meet the intent of these rules.

(i) The request for a variance must be in writing and describe:

(A) The specific requirement the variance is requested to replace;

(B) The alternative proposed to meet the specific requirement; and

(C) How the proposed alternative will provide at least a comparable level of protection as that provided by the specific requirement.

(ii) The request for a variance must include information as needed to support and clarify the request, such as material descriptions and specifications, engineering reports, photos, drawings, or sketches.

(b) May implement a variance only after obtaining approval from the local health officer.

(2) The local health officer shall:

(a) Initially review documents submitted with the request for a variance and inform school officials if additional information is required.

(b) Compare the health and safety aspects of the specific requirement being addressed and the variance proposal to determine if the proposal provides at least a comparable level of protection as that provided by the specific requirement.

(c) Provide written approval or denial of a request for a variance within sixty days of receiving a complete written request, unless school officials and the local health officer agree to a different timeline.

(d) Submit an annual written report to the department regarding all variance requests. The report must be submitted by March 1st of each year, beginning the third year after the effective date of this section, and cover the calendar period January through December of the previous year.

NEW SECTION

WAC 246-366A-175 Temporary emergency waivers for disaster situations. The local health officer may grant school officials an emergency waiver from some or all of the requirements in these rules for the temporary use of a facility or site as a school when the facility normally used by the school is not safe to be occupied due to a natural or man-made disaster.

NEW SECTION

WAC 246-366A-180 Appeals. Decisions or actions of the local health officer may be appealed to the local board of health in a manner consistent with their established procedure.

NEW SECTION

WAC 246-366A-190 Complaints. (1) School officials shall establish a written complaint process, if such a written process does not already exist. The complaint process must clearly describe the means for a person to file a written complaint concerning failure to comply with a provision of these rules that jeopardizes the health and safety of students. At a minimum, the process shall provide for:

- (a) Promptly investigating all complaints;
- (b) Correcting conditions not in compliance with these rules within an appropriate time frame given the level of risk to health and safety;
- (c) Providing notification for imminent health hazards in accordance with WAC 246-366A-020;
- (d) Promptly communicating with the complainant regarding the outcome of the investigation, and the actions and time frame proposed to address any verified conditions not in compliance with these rules; and
- (e) Communicating with the local health officer about the outcome of complaint investigations referred to school officials by the local health officer.

(2) The local health officer who receives a complaint concerning failure to comply with a provision of these rules that jeopardizes the health and safety of students shall:

- (a) Promptly inform school officials that a complaint was filed with the local health officer;
- (b) Conduct a preliminary inquiry to determine if an imminent health hazard exists;
- (c) Investigate the complaint in consultation with school officials if an imminent health hazard exists;
- (d) Either refer the complaint to school officials or investigate the complaint in consultation with school officials if an imminent health hazard does not appear to exist; and
- (e) Communicate with the complainant about the outcome of the complaint investigation.

NEW SECTION

WAC 246-366A-200 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.